

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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BRENDA LEUZZI and GEORGE LEUZZI,
Plaintiffs,

-against-

ETHICON INC., ETHICON ENDO SURGERY,
INC., ETHICON WOMEN'S HEALTH AND
UROLOGY, a division of ETHICON, INC. and
ABC CORPORATIONS 1-10 and JOHN DOES 1-
10 and JANE DOES 1-10,

Defendants.
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6:14-CV-6218 (DGL)(JWF)

**JOINT REPORT OF RULE 26(f)
CONFERENCE AND PROPOSED
DISCOVERY PLAN**

WHEREFORE, pursuant to the Court's August 12, 2014 Order (Dkt. No. 11) and Fed. R. Civ. P. 16(b), a status and scheduling conference will be held in this case before the Honorable JONATHAN W. FELDMAN, United States Magistrate Judge on **October 8, 2014, at 10:30 AM** at the United States Courthouse, 100 State Street, Rochester, New York; and

WHEREFORE, pursuant to that Order, all parties in the above-captioned action, by and through their undersigned counsel, conferred telephonically in good faith and in accordance with Fed. R. Civ. P. 26(f) with respect to all of the agenda items listed below on September 22, 2014;

PLEASE TAKE NOTICE that the parties hereby submit a report of that meeting and submit a Proposed Discovery Plan in the format prescribed in the Court's August 12, 2014 Order:

Proposed Discovery Schedule

The detailed discovery schedule proposed by the parties is as follows:

Event	Date
Initial Disclosures	October 1, 2014
Amendments to Pleadings/Joinder of Parties	October 22, 2014
Close of Fact Discovery	June 26, 2015
Plaintiffs' Expert Reports/Disclosure	July 31, 2015
Defendant's Expert Reports/Disclosure	August 28, 2015
Expert Depositions Concluded/ Close of	October 30, 2015

Expert Discovery	
Deadline for Dispositive Motions (and motions to compel discovery)	December 11, 2015
Responses to Dispositive Motions	January 15, 2016
Replies to Dispositive Motions	February 12, 2016
Trial	April 2016

Proposed Discovery Plan

- 1) In his referral order, Judge Larimer has specifically encouraged the parties to consider the provisions of 28 U.S.C. §636(c) governing consent to complete disposition of the case (including trial, if necessary) by this Court. The parties shall state in the PDP whether or not unanimous consent to Magistrate Judge jurisdiction has been agreed upon.**

Unanimous consent to Magistrate Judge jurisdiction was not agreed upon.

- 2) Deadline for compliance with the mandatory disclosure requirements found in Rule 26(a)(1) of the Federal Rules of Civil Procedure. Any objections to the required disclosures must also be stated in the PDP.**

The deadline for compliance with mandatory disclosure requirements pursuant to Rule 26(a)(1) is no later than October 1, 2014.

- 3) Deadline for the filing of motions to amend the pleadings or add parties.**

The deadline for filing of motions to amend the pleadings or add parties is October 22, 2014.

- 4) Deadline for completion of fact discovery.**

The deadline for completion of fact discovery is June 26, 2015.

- 5) If expert discovery is contemplated by any party, a deadline for the completion of all expert discovery, including full compliance with Rule 26(a)(2) regarding the identification and filing reports of testifying experts.**

The deadline for completion of all expert discovery in compliance with Rule 26(a)(2) is October 30, 2015. The parties expect to retain experts on liability, damages, and causation issues. Disclosure of Ethicon's experts will be sequenced in accordance with Rule 26(a)(2)(D). The parties propose that plaintiffs' expert reports be exchanged no later than July 31, 2015;

defendant's rebuttal reports be exchanged August 28, 2015; and expert depositions occur no later than October 30, 2015.

6) Deadline for the filing of motions to compel discovery.

The deadline for filing motions to compel discovery is December 11, 2015.

7) Any Orders that should be entered under Rule 26(c) (protective/confidentiality orders).

Ethicon will request entry of a protective order encompassing its trade secrets and other confidential and proprietary business information relating to the morcellation device at issue, and making provision for the handling of inadvertently produced privileged documents.

8) Any changes in the limitations on discovery as provided in Rule 30 (oral depositions), and Rule 33 (interrogatories practice) and Local Rule 34 (document requests).

The parties do not propose any changes in the limitations on discovery as provided under Rule 30, Rule 33, or Rule 34.

9) Any issues that the parties reasonably foresee concerning discovery of electronically stored information, including the form or forms in which it should be produced.

The parties will work to agree on specifications regarding the production of electronically stored information. No electronic discovery issues requiring the Court's intervention have been identified at this time.

10) Deadline for the filing of dispositive motions.

The deadline for filing dispositive motions is December 11, 2015.

11) The advisability and timing of a judicially supervised settlement conference or other alternative dispute resolution, including mediation.

Parties do not believe that the prospects for settlement can be evaluated prior to the exchange of initial discovery, and completion of fact and expert depositions.

12) The parties shall advise whether a jury trial is required and the estimated length of the trial.

Parties shall advise whether a jury trial is required. It is anticipated that the trial will take approximately 7-10 days to complete.

Pursuant to Fed. R. Civ. P. 26(f) a meeting was held telephonically on September 22, 2014 and was attended by:

Andres Alonso, Esq.
Alonso Krangle LLP
for Plaintiffs Brenda Leuzzi and George Leuzzi

Francois Blaudeau, Esq.
Southern Institute for Medical & Legal Affairs
Heninger Garrison Davis LLC
for Plaintiffs Brenda Leuzzi and George Leuzzi

John D. Winter, Esq.
Patterson Belknap Webb & Tyler LLP
for Defendant Ethicon, Inc.

Dated: New York, New York
October 1, 2014

Respectfully Submitted,

/s/ Andres Alonso

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